

HOUSE BILL REPORT

ESB 5499

As Reported By House Committee On:

Law & Justice

Title: An act relating to assault on bus drivers.

Brief Description: Defining when an assault on a bus driver constitutes assault in the third degree.

Sponsors: Senators Roach, Johnson, Goings, Jacobsen, Haugen, Horn, Zarelli, McCaslin, Long, Franklin, Winsley, Oke and Rasmussen.

Brief History:

Committee Activity:

Law & Justice: 2/20/98, 2/26/98 [DP].

HOUSE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass. Signed by 13 members: Representatives Sheahan, Chairman; McDonald, Vice Chairman; Sterk, Vice Chairman; Costa, Ranking Minority Member; Constantine, Assistant Ranking Minority Member; Carrell; Cody; Kenney; Lambert; Lantz; Mulliken; Robertson and Sherstad.

Staff: Bill Perry (786-7123).

Background: An assault, in its simplest form, has been defined by case law as any intentional offensive touching or striking of another, regardless of whether any actual physical harm is done to the victim. An act of assault may range from spitting on someone to inflicting a permanently disabling or disfiguring injury. The criminal code divides the crime of assault into four degrees, and into some specific separate crimes. The various crimes are distinguished by the state of mind of the offender, the extent of injury done to the victim, whether or not a weapon was used, and who the victim was.

Fourth-degree assault, sometimes called "simple assault," is a gross misdemeanor. Any assault that does not fall within the definition of one of the other degrees or definitions of the crime is fourth-degree assault. Third-degree assault, the lowest level of felony assault, is a class C felony. Generally, in order to amount to third-degree assault, an assault must involve causing some bodily harm with a weapon, or must involve otherwise

causing bodily harm that is "accompanied by substantial pain that extends for a period sufficient to cause considerable suffering."

However, the Legislature has also provided that with respect to certain victims, an assault that would otherwise be a gross misdemeanor will be a felony. That is, with respect to these victims, there is no need to show bodily harm caused by a weapon, or accompanied by substantial pain, in order for the crime to be a felony. A fourth-degree assault becomes a class C felony if committed against:

- a public or private transit vehicle driver;
- a public or private school bus driver;
- a firefighter;
- a law enforcement officer;
- a nurse, physician, or health care provider;
- personnel or volunteers at a juvenile corrections facility;
- personnel or volunteers at an adult corrections facility; or
- personnel or volunteers involved in community corrections.

An assault that would otherwise be a misdemeanor against one of these victims becomes a felony only if the victim is engaged in his or her job-related duties at the time of the assault. In the case of transit vehicle and school bus drivers, however, it is also necessary that the driver be operating the vehicle and that there be at least one passenger in the vehicle.

Summary of Bill: An assault that would otherwise be a misdemeanor assault on a transit vehicle or school bus driver becomes a felony if committed at any time the driver is performing his or her duties. The requirements that the driver be operating the vehicle or bus and that at least one passenger be present are removed.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: Increasing violence, including gang violence, against drivers makes this bill necessary. Bus drivers should have the same protection as others included in this statute.

Testimony Against: None.

Testified: Sarah Scanlon, Washington State SEIU Council (pro); Dale Nusbaum, Amalgamated Transit Union (pro); Mike Powell, Amalgamated Transit Union, Local 1384 (pro); and Sandra Schroeder, Washington Federation of Teachers (pro).